

1
2
3
4
5
6
7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
10

11 ANTHONY L. ALLEN, JR.,

12 Petitioner,

13 v.

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Respondent.
17

No. 2:22-CV-0011-DMC-P

ORDER

18 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of
19 habeas corpus under 28 U.S.C. § 2254.

20 Pending before the Court is Petitioner's second amended petition, ECF No. 16. "A
21 petitioner for habeas corpus relief must name the state officer having custody of him or her as the
22 respondent to the petition." Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir.
23 1994); see also Rule 2(a), Federal Rules Governing Section 2254 Cases. Because Petitioner has
24 not named the appropriate state officer, Petitioner will be provided leave to amend to correct this
25 technical defect by naming the correct respondent. See Stanley, 21 F.3d at 360. The Court notes
26 that this is the third time Petitioner has been advised of this defect and instructed to file an
27 amended petition. Petitioner is warned that continued failure to comply with this order will result
28 in a recommendation that this action be dismissed. See Local Rule 110.

Also before the Court is Petitioner's motion, ECF No. 17, to submit evidence in support of his claims. Concurrent with this motion, Petitioner filed two sets of supporting exhibits at ECF Nos. 18 and 19. Petitioner's motion will be granted to the extent Petitioner may attach to his third amended petition whatever supporting exhibits he feels appropriate.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's second amended petition for writ of habeas corpus, ECF No. 16, is dismissed with leave to amend;
2. Petitioner's motion, ECF No. 17, to submit evidence is granted;
3. Petitioner shall file a third amended petition on the form employed by this court, and which names the proper respondent and states all claims and requests for relief, within 30 days of the date of this order; and
4. The Clerk of the Court is directed to send Petitioner the Court's form habeas corpus application.

Dated: December 21, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE